

II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this amendment, claims 1-14 remain pending.

Interview Summary

The undersigned would like to thank Examiner Leo for the courtesies extended during the interview (conducted via telephone on February 15, 2008) regarding the final Office Action of November 15, 2007 and the Advisory Action of January 30, 2008.

In the interview, reference was made to the rejection under § 102(d) based on Fernstum, in the final Office Action the rejection stated “as permissibly gleamed from Figure 4 (below), the unlabelled step portion (near groove 47) extends laterally at an angle of about 30 degrees with the plane of the base portion 30.” As discussed with Examiner Leo, this quoted section of the Office Action is not referring to Figure 4 of Fernstrum. Rather, the quoted language is a vestige of a prior rejection and this language should not have appeared in the final Office Action. Similarly, this language also appeared in the Advisory Action and should not have appeared therein. Regarding the Advisory Action, additional language relating to the Fernstrum reference stated “Figure 5 discloses tube 3’ extends through the slot in header 1”. It was concluded in the interview that this reference to Figure 5 was incorrect and should have been a reference to Figure 4 of Fernstrum.

This response proceeds on the above basis and understanding.

Claim Rejections - 35 U.S.C. § 102(b)

Claims 1, 2 and 7-11 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,931,217 to Fernstrum ("Fernstrum"). Applicant respectfully traverses this rejection.

In Fernstrum, the slots 67 extend from a bottom face 65 into an inclined face 61 and a side face 59. The tube 3 is provided at its end with faces 73 and 75. Fernstrum specifically recites that these faces 73 and 75 of the tube 3 are the attached to faces 65, 61 and 59 of the header 1. (See Fernstrum, col. 4, lines 5-8). Being in face-to-face engagement, the tube 3 can not extend into the slot 67.

In the claims of the present application, the tube is specifically recited as extending into the slot. By extending into the slot, the step portions engage the tube along a length of the surface of the tube, while the base portion engages the tube along a width of the surface of the tube. Since these surface directions are angled with respect to one another, they cooperated to structurally support the tube in the header by forming a bracketed construction. Generally, by engaging the tube along a portion of its length, the step portions of the slot prevent the tube from being pivoted in the slot about the line of contract defined by the base portion of the slot and extending width-wise across the tube. By attaching the faces 71, 73 of the tube to outer faces of the header in Fernstrum, the claimed construction, with the tube extending through the slot, is not disclosed.

Regarding Figure 6 of Fernstrum, it is respectfully submitted that the tube 3' is not disclosed as extending through the header 1. This figure of Fernstrum is discussed

in column 4 at lines 18-22 where it is merely stated that the face portion 75' of the tube 3' could extend outwardly from the face 63 of the header 1. In other words, the exposed end face 75' of the tube 3' is merely located outward beyond from the angled side face 63 of the header. In the discussion regarding Figure 6, Fernstrum does not suggest or disclose that any other construction, other than the construction previously disclosed, is employed in mounting the tube 3' to the header 1. Accordingly, it is respectfully submitted that the previously discussed face-to-face mounting of the tube with the header is employed. It is also respectfully submitted that this interpretation of the construction is supported by Figure 6 since Figure 6 fails to show any hidden surface lines, via phantom lines, as is done elsewhere in Fernstrum. Had Fernstrum intended to propose an alternate construction it is respectfully submitted that the alternate construction, would have been specifically referred to, illustrated or discussed.

Claims 2 and 7-14 depend either directly or indirectly from claim 1. These claims are likewise allowable at least for the same reasons as claim 1.

Claim Rejections - 35 U.S.C. §103(a)

Claims 3-6 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Fernstrum. Since claims 3-6 depend from Claim 1, which Applicant respectfully submits is patentable for the reasons given above, it follows that claims 3-6 are likewise patentable, for at least the same reasons.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

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